

## REMARKS

In the application claims 4-9 remain pending.

Claims 4-9 presently stand rejected under 35 U.S.C. § 103 as being rendered obvious by the combination of Caveney (U.S. Patent No. 5,608,621) and Tsukishima (U.S. Patent No. 6,535,773).

The reconsideration of the rejection of the claims is respectfully requested.

In rejecting the claims, it was acknowledged that Caveney fails to disclose the use of an inventory management system over a plurality of distribution points in a supply chain. It was alleged, however, that Tsukishima discloses in Col. 7, lines 41-67 a part-based expansion arithmetic unit (34) designed to arithmetically determine inventory allotment (shares apportioned), lot arrangement, and lead time as part of an MRP procedure “in order to optimize the supply chain.” As such, it was concluded that it would have been obvious to modify Caveney with an inventory allotment method “over a plurality of distribution points” as taught by Tsukishima “in order to optimize the supply chain.”

In response to this rejection of the claims, it is again respectfully submitted that a rejection under 35 U.S.C. § 103 requires that a combination of references disclose, either expressly or inherently, each and every element set forth in the claims, considering the claims “as a whole.” The requirement that the claimed invention be considered “as a whole” is meant to prevent evaluation of an invention part by part, i.e., breaking an invention into its component parts and then merely finding a reference containing one part, another reference containing another part, etc., and to prevent the impermissible use of the specification of the applicant as a template to combine these parts for the purpose of deprecating the claimed invention. Thus, to assure that such “hindsight reasoning” is not used when assessing the patentability of a claimed

invention, a rejection under 35 U.S.C. § 103 requires a demonstration that an artisan of ordinary skill in the art at the time of the invention, with no knowledge of the claimed invention, would have selected the various parts from the references and combined them in the claimed manner. In other words, the test of whether it would have been obvious to select specific teachings and combine them must still be met by identification of some suggestion, teaching, or motivation in the prior art, arising from what the prior art would have taught a person of ordinary skill in the field of the invention.

As acknowledged in the rejection of the claims Caveney “fails to explicitly disclose the use of an inventory management system over a plurality of distribution points in the supply chain.” Thus, by generally failing to disclose, teach, or suggest using an inventory management system to manage items over a plurality of distribution points in the supply chain, it is respectfully submitted that Caveney fails to disclose, teach, or suggest the specifically claimed using a critical stocking ratio “to apportion the total quantity of each of the plurality of items which can be held in inventory over the forecast period in shares to a plurality of distribution points in the supply chain...”

Considering now Tsukishima, it is respectfully submitted that Tsukishima also fails to disclose, teach, or suggest the claimed “using a critical stocking ratio for each of the plurality of items to apportion the total quantity of each of the plurality of items which can be held in inventory over the forecast period in shares to the plurality of distribution points in the supply chain...” While Tsukishima in Col. 7, lines 41-67 describes that an arithmetic unit is designed to determine inventory allotment, lot arrangement, and lead time as parts of an MRP arithmetic procedure, defined as a procedure for determining the types of species of parts required for manufacturing an article to be manufactured in accordance with a schedule, time points at which

component parts of the article are required, and the numbers thereof (Col. 1, lines 15-25), it is respectfully noted that **nowhere** does Tsukishima disclose, teach, suggest, or otherwise infer that the MRP arithmetic process considers “a plurality of distribution points within a supply chain.” In fact, **nowhere** does Tsukishima disclose, teach, suggest, or otherwise infer that the inventory is “allotted” over a plurality of distribution points within a supply chain. Rather than disclose, teach, or suggest an inventory allotment method “over a plurality of distribution points” let alone “in order to optimize a supply chain,” Tsukishima describes nothing more than “allotting” inventory to the manufacture of certain parts of an article in order to ensure that the article itself is timely manufactured.

From the foregoing it will be appreciated that neither Caveney nor Tsukishima disclose, teach, or suggest the claimed “using a critical stocking ratio for an item to apportion a total quantity of the item which can be held in inventory over a forecast period in shares to a plurality of distribution points in the supply chain...” Absent the disclosure of these claimed elements in either Caveney or Tsukishima, it simply cannot be said that one with no knowledge of the claimed invention would have selected various parts from the cited references and combined them in the claimed manner. Thus, it is respectfully submitted that the disclosure within Caveney and Tsukishima fails to present a *prima facie* case of obviousness and the rejection of the claims must be withdrawn, i.e., nothing from Tsukishima can be said to disclose, teach, or suggest modifying Caveney to include inventory allotment over a plurality of distribution points or doing the same in order to optimize a supply chain.

#### CONCLUSION

It is respectfully submitted that the application is in good and proper form for allowance. Such action of the part of the Examiner is respectfully requested.

Should it be determined, however, that a telephone conference would expedite the prosecution of the subject application, the Examiner is respectfully requested to contact the attorney undersigned.

Respectfully Submitted;



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